

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES - GENERAL**

JS - 6

Case No. CV 08-08080 MMM (FMOx)

Date July 8, 2009

Title *Fredrickson v. City of Los Angeles Unefied School District et al.*

Present: The Honorable MARGARET M. MORROW

ANEL HUERTA

N/A

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None

None

**Proceedings: Order Remanding Action to State Court**

On November 17, 2008, plaintiff Rev. Dr. Gary Fredrickson filed a complaint in Los Angeles Superior Court. On December 8, 2008, the United States filed a notice of removal, invoking 28 U.S.C. § 1442(a).<sup>1</sup> The United States asserted that Fredrickson served the United States Attorney's Office, suggesting an intent to serve a federal defendant. The United States noted, however, that it was unable to ascertain the identity of the federal defendant Fredrickson sought to sue. On December 16, 2008, the United States filed a motion to dismiss the federal defendants for failure to comply with Rule 8 of the Federal Rules of Civil Procedure. The court granted the United States' motion to dismiss on February 5, 2009, and granted Fredrickson twenty days leave to amend. Fredrickson did not file an amended complaint within twenty days. Accordingly, the court entered a judgment for the federal defendants on March 3, 2009.

Under 28 U.S.C. § 1367(c), if the district court has dismissed all the claims over which it has original jurisdiction, the court may decline to exercise supplemental jurisdiction over the remaining claims. Here, the dismissal of the federal defendants removed the only basis for original jurisdiction over the case. The court therefore declines to exercise jurisdiction over the remaining claims. See *Murphy v. Kodz*, 351 F.2d 163, 167-68 (9th Cir.1965) ("Where the federal head of jurisdiction has vanished from the case, and there has been no substantial commitment of judicial resources to the nonfederal claims it is . . . akin to 'making the tail wag the dog' for the District Court to retain jurisdiction"). The clerk is directed to remand the action to Los Angeles Superior Court forthwith.

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<sup>1</sup>Section 1442(a) provides for removal of a civil action against, *inter alia*, "[t]he United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, sued in an official or individual capacity for any act under color of such office."